

12VAC30-110-90. Right to appeal.

An individual has the right to file an appeal when:

1. His application for benefits administered by the department is denied. However, if an application for State and Local Hospitalization coverage is denied because of a lack of funds which is confirmed by the hearing officer, there is no right to appeal.
2. The agency takes action or proposes to take action ~~which~~ that will adversely affect, reduce, or terminate his receipt of benefits;
3. His request for a particular medical service is denied, suspended, reduced, or terminated, in whole or in part;
4. The agency ~~does not~~ fails to take an application and/or fails to act with reasonable promptness on his application for benefits or request for a particular medical service; ~~or~~
5. The agency takes action or proposes to take action regarding the recovery of applicable medical assistance payments from a decedent's estate;
6. The agency takes action or proposes to take action regarding the recovery of expenditures for services received by ineligible individuals;
7. The agency takes action or proposes to take action regarding the recovery of expenditures paid on behalf of individuals whose coverage was continued during the appeals process; or

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~~5.~~ 8. Federal regulations require that a fair hearing be granted.

CERTIFIED:

Date

Patrick W. Finnerty, Director
Dept. of Medical Assistance Services

12VAC30-110-370. Final decision.

After conducting the hearing, reviewing the record, and deciding questions of law, the hearing officer shall issue a written final decision which either sustains or reverses the agency action or remands the case to the agency for further action consistent with his written instructions. The hearing officer's final decision shall be considered as the agency's final administrative action pursuant to 42 CFR, 431.244(f). The final decision shall include:

1. A description of the procedural development of the case;
2. Findings of fact ~~which~~ that identify supporting evidence;
3. Conclusions of law ~~which~~ that identify supporting regulations and law;
4. Conclusions and reasoning;
5. The specific action to be taken by the agency to implement the decision; ~~and~~
6. The deadline date by which further action must be taken; and
7. A cover letter stating what the hearing officer's decision is final, and stating that the
~~The notice shall state that~~ a final decision may be appealed directly to circuit court as provided in §9-6.14:16 B of the Code of Virginia and 12VAC30-110-40.

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